

Indiana Department of State Revenue
Revenue Ruling #2006-02IT
February 22, 2006

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ISSUES

Corporate Adjusted Gross Income Tax—Sourcing Business Receipts

Authority: IC 6-3-2-1; IC 6-3-2-2; 45 IAC 3.1-1-37; 45 IAC 3.1-1-55.

Taxpayer requests the Department to rule on the sourcing of business receipts.

1. Should taxpayer apply the personal services ratio to determine how much of its receipts from commissions received on sale of insurance coverage policies should be sourced to Indiana?
2. Should taxpayer apply the personal services ratio to determine how much of its receipts from management fees should be sourced to Indiana?

STATEMENT OF FACTS

Taxpayer is an Indiana corporation that specializes in marketing and writing property and casualty insurance. Taxpayer does business and files income tax returns in Indiana and other states. Taxpayer's subsidiaries both are Indiana domiciled; they are licensed and sell insurance policies in all fifty states and all Canadian provinces. Revenue received from commissions for the solicitation and execution of insurance coverage policies and management fees represent approximately ninety percent (i.e., a principal source) of taxpayer's total net revenue as stated in taxpayer's audited financial statements. Taxpayer does not sell or lease intangible personal property.

DISCUSSION

IC 6-3-2-1 imposes on every corporation an income tax upon the adjusted gross income derived from sources within Indiana. For adjusted gross income tax purposes, a corporation must apportion its business income derived from sources within and without Indiana. *See*, IC 6-3-2-2. 45 IAC 3.1-1-37 states that business income is apportioned to Indiana based on the 3-factor formula named in IC 6-3-2-2(b). Business income derived from sources within Indiana is determined by multiplying all business income by a fraction; the numerator of the fraction is the

property factor plus the payroll factor plus twice the sales factor; the denominator of the fraction is four. *Id.*

45 IAC 3.1-1-55, **Attribution of sales to state**, interprets IC 6-3-2-2. The regulation states that gross receipts from transactions other than sales of tangible personal property are included in the numerator of the sales factor if the income-producing activity which gave rise to the receipts is performed wholly within Indiana. If the income producing activity is performed within and without Indiana, those receipts are attributed to Indiana based on whether or not the receipts constitute a principal source of income. *Id.* Income producing activity is deemed performed at the situs of real, tangible, and intangible personal property or the place where personal services are rendered. *Id.* The situs of intangible personal property is the commercial domicile of the taxpayer (i.e., the principal place from which trade or business of the taxpayer is directed or managed). *Id.*

Commission Revenue on Sale of Insurance Policies

Taxpayer states that the performance of services for customers across the United States are split between Indiana and the resident state of the insured. Taxpayer's employees travel into the various states and execute an insurance coverage application in the resident state of the insured. Prior to a quote being provided, Taxpayer's employees perform loss prevention services, which occurs in the home office located in the state of the prospective customer. Subsequent to the execution of the sale and loss prevention services, the insurance policy is underwritten by a taxpayer subsidiary. Once the policy is underwritten, it is delivered to the insured in their home state. Taxpayer receives a commission for the solicitation and execution of the sale.

Taxpayer's commission revenue constitutes a principal source of business income, therefore, Taxpayer's commission revenue is sourced in this manner. Services are rendered both within and without Indiana, 45 IAC 3.1-1-55(d) states that the gross business income receipts shall be attributed to Indiana based upon the ratio which the time spent performing services in Indiana bears to the total time spent in performing such services everywhere.

Management Fee Revenue

Taxpayer serves as a third-party administrator for many customers of self-insurance policies sold by one of its subsidiaries. Using its employees located in Indiana, Taxpayer provides services to process insurance claims for self-insurance customers. Taxpayer's employees supervise the handling and settlement of these claims, including hiring outside adjustors and attorneys. As well, Taxpayer's employees conduct many claim processing services, such as inspection, interviews, and documentation of insurance claims in the resident state of the insured or in the state where the accident occurred. Following the services rendered by the adjustors and attorneys, Taxpayer issues a claim report to the self-insured to the policy holder's resident state. A claims management fee is charged to each policyholder selecting Taxpayer as its third-party administrator. The fee is paid directly to taxpayer by the policyholder.

Taxpayer's management fee revenue constitutes a principal source of business income, therefore Taxpayer's management fee revenue is sourced in this manner. Services are rendered both within and without Indiana. 45 IAC 3.1-1-55(d) states that the gross business income receipts

shall be attributed to Indiana based upon the ratio which the time spent performing services in Indiana bears to the total time spent in performing such services everywhere.

RULING

The Department rules that the commission revenue and the management fee revenue is earned for services rendered both within and without Indiana. The gross business income receipts shall be attributed to Indiana based upon the ratio which the time spent performing services in Indiana bears to the total time spent in performing such services everywhere.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection

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